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2 **Filed: August 9, 1999**
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6 UNITED STATES BANKRUPTCY COURT
7 NORTHERN DISTRICT OF CALIFORNIA
8

9 In re) Bankruptcy Case
10 INTERNATIONAL CAB COMPANY, INC.,) No. 98-30535WDM
11 a California Corporation, dba) Chapter 7
12 NATIONAL CAB COMPANY,)
Debtor.)
_____)

13 MEMORANDUM DECISION

14 I. Introduction

15 The court issued an order to show cause re contempt to Lisa
16 Michaels, Jill Weiss, and their counsel Abramson & Smith, LLP,
17 (collectively, "Respondents") for an alleged violation of the
18 automatic stay under 11 U.S.C. § 362(a)(3). The trustee
19 ("Trustee") alleged Respondents violated the stay by attempting
20 to amend a state court judgment against the debtor, International
21 Cab Co. ("International") to include the names of National Cab Co.
22 ("National") and James O'Connor ("O'Connor") as alter ego judgment
23 debtors.

24 The court has considered the Trustee's Motion for Order to
25 Show Cause Re Contempt; Respondents' Response to the Motion
26 ("Response"); Respondents' Supplemental Response ("Supplemental
27 Response"), to which the Trustee has declined the opportunity to
28 respond in writing; and the arguments of counsel at hearings on

1 June 30, and July 30, 1999. For the reasons that follow, the
2 court finds Respondents violated the automatic stay and are in
3 civil contempt. The court has discretion under 11 U.S.C. § 105(a)
4 to impose sanctions for civil contempt for automatic stay
5 violations. The Trustee shall be awarded \$1,000 against
6 Respondents as partial compensation for the Trustee's costs and
7 fees in filing and prosecuting the motion for the Order to Show
8 Cause.

9 II. Facts

10 On September 3, 1997, Lisa Michaels and Jill Weiss obtained a
11 state court judgment against International for personal injuries
12 sustained in an accident while passengers in a taxicab owned by
13 International. At that time, International's insurance company
14 was in insolvency proceedings and was unable to satisfy any
15 insurance claims. International petitioned the state court for a
16 two month stay of execution of the judgment. During this period,
17 O'Connor incorporated National and immediately transferred
18 International's assets to National, while leaving all liabilities
19 in International. O'Connor is the sole shareholder and president
20 of both companies. International filed a Chapter 7 bankruptcy
21 petition approximately four months later. Under 11 U.S.C.
22 § 362(a), the petition stayed Respondents from enforcing their
23 judgment against International.

24 Respondents then filed a fraudulent transfer action in state
25 court based upon the transfer of International's assets to
26 National. Fraudulent transfer claims are property of the estate
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1 and can only be asserted by the Trustee.¹ The Trustee notified
2 Respondents of the automatic stay violation and requested that
3 Respondents dismiss their suit, which they did.

4 The Trustee then reached a settlement with O'Connor and
5 National which released each of them from any further claims by
6 the Trustee or the estate. Respondents objected to the
7 settlement, and a hearing was held in which Respondents'
8 objections were overruled. At the hearing, Respondents were
9 informed that any alter ego claim based upon the fraudulent
10 transfer was property of the estate. Following the settlement,
11 Respondents filed a motion to amend ("Motion to Amend") their
12 state court judgment for personal injuries to include National and
13 O'Connor as alter ego judgment debtors under California Code of
14 Civil Procedure section 187.

15 III. Issues Presented

16 May Respondents assert an alter ego claim against National or
17 O'Connor?

18 Have Respondents violated the automatic stay by filing the
19 Motion to Amend?

20 If the automatic stay has been violated, can Respondents be
21 held in contempt and thereby ordered to pay damages to the
22 Trustee?

23 IV. Discussion

24 A. The Alter Ego Doctrine

25
26 ¹ Under 11 U.S.C. § 541, the bankruptcy estate includes "all
27 legal or equitable interests of the debtor in property as of the
28 commencement of the case." These interests include fraudulent
transfer actions. American National Bank of Austin v.
MortgageAmerica Corp. (In re MortgageAmerica Corp.), 714 F.2d 1266
(5th Cir. 1983).

1 The alter ego doctrine is used to establish the direct
2 liability of a shareholder or owner when that shareholder or owner
3 improperly uses the corporate entity to commit acts which harm the
4 corporation itself, or third persons involved with the
5 corporation. State law determines who has standing to assert an
6 alter ego claim when the corporate entity which has been abused
7 subsequently files bankruptcy. CBS, Inc. v. Folks (In re Folks),
8 211 B.R. 378, 385 (9th Cir. BAP 1997) ("Folks"). Both
9 International and National are incorporated in California.
10 O'Connor is a resident of California. Therefore, California law
11 is controlling on the issue of standing to bring an alter ego
12 claim in this case.

13 The California Supreme Court has described the use of the
14 alter ego doctrine as follows:

15 The alter ego doctrine arises when a plaintiff comes
16 into court claiming that an opposing party is using the
17 corporate form unjustly and in derogation of the
18 plaintiff's interests. (6 Witkin, Summary of Cal. Law
19 (8th ed. 1974) Corporations, § 5, p.4318.) In certain
20 circumstances the court will disregard the corporate
21 entity and will hold the individual shareholders liable
22 for the actions of the corporation: "As the separate
23 personality of the corporation is a statutory privilege,
24 it must be used for legitimate business purposes and
25 must not be perverted. When it is abused it will be
26 disregarded and the corporation looked at as a
27 collection or association of individuals, so that the
28 corporation will be liable for acts of the stockholders
or the stockholders liable for acts done in the name of
the corporation." (Comment, Corporations: Disregarding
Corporate Entity: One Man Company (1925) 13 Cal.L.Rev.
235, 237.)

24 Mesler v. Bragg Management Co., 39 Cal. 3d 290, 300, 702 P.2d 601,
25 216 Cal. Rptr. 443 (1985).

26 The case of Automotriz Del Golfo De California v. Resnick, 47
27 Cal. 2d 792, 306 P.2d 1 (1957) earlier set forth two prerequisites
28 for the application of the alter ego doctrine. They are "(1)

1 that there be such unity of interest and ownership that the
2 separate personalities of the corporation and the individual no
3 longer exist and (2) that, if the acts are treated as those of the
4 corporation alone, an inequitable result will follow." Id. at
5 796.

6 B. Generalized Alter Ego Claims

7 California law distinguishes two types of alter ego claims:
8 generalized and particularized. Folks, 211 B.R. at 385, 387.
9 Generalized claims are those which derive from harm to the
10 corporation and could be asserted by any creditor of the
11 corporation. Id. at 387. In other words, the corporation itself
12 is injured in such a way that each of its creditors is injured
13 vicariously through the injury to the corporation. The
14 corporation is the initial target of the injury. Where the injury
15 is to the corporation itself, the claim for that injury is for the
16 benefit of the corporation, and is therefore the property of the
17 estate. Id. at 387, 388. "[O]nly the Debtor or Trustee has
18 standing to assert the alter ego claim where injury to the
19 corporation is alleged." In re Davey Roofing Inc., 167 B.R. 604,
20 608 (Bankr. C.D. Cal. 1994).

21 The resolution of the standing issue depends upon whether the
22 alter ego claim is the property of the estate or instead belongs
23 to a particular creditor. Folks, 211 B.R. at 387. If the alter
24 ego claim is property of the estate, then it can only be asserted
25 by the Trustee. Davey Roofing, 167 B.R. at 606. Alternatively,
26 if it is not estate property, then the creditor may assert the
27 claim. The Trustee "may not enforce rights of action which belong
28 to the creditors individually because they are not rights in which

1 the bankrupt claims an interest and are not assets of the estate
2 in bankruptcy." Stodd v Goldberger, 73 Cal. App. 3d 827, 835, 141
3 Cal. Rptr. 67 (1977).

4 In Davey, creditor S-G Wholesale filed a state court claim
5 against Donald Davey as the alter ego of Davey Roofing, Inc.
6 S-G Wholesale alleged that Davey had abused the corporate
7 entity by commingling corporate funds with personal funds,
8 which Davey then withdrew for personal use. S-G Wholesale
9 alleged that Davey Roofing was unable to pay its debt due to
10 the transfer of funds. Davey Roofing then filed a Chapter 11
11 petition and requested the bankruptcy court to determine
12 whether S-G Wholesale's alter ego claim was property of the
13 estate.

14 The Davey court determined that the alter ego claim was
15 property of the estate because injury to the corporation had
16 been alleged. The court stated:

17 In the case at bar, S-G alleges that Debtor's
18 principal misappropriated for his own benefit assets
19 belonging to the bankrupt corporation, to the
20 detriment of the estate and all of Debtor's
21 creditors, rather than any individual creditor.
22 Thus, Debtor [or the Trustee in bankruptcy] is the
23 proper party to assert alter ego claims, and all of
24 Debtor's creditors are bound by the outcome of the
25 estate's action.

26 Davey, 167 B.R. at 608.

27 Similarly, in Folks, creditor CBS Inc., alleged that Byron
28 Folks, as the alter ego of BYCA, Inc., had "failed to observe
any corporate formalities with respect to BYCA and used bank
accounts and funds of BYCA for personal and family
expenditures. This is a general claim because all creditors
are affected and no particularized injury to CBS exists."

1 Folks, 211 B.R. at 387.

2 C. Particularized Alter Ego Claims

3 Particularized alter ego claims are distinguished by
4 direct harm to a creditor and do not derive from general harm
5 to the corporation. If a claim is particularized, then it is
6 not property of the estate because it only benefits that
7 particular creditor. Folks, 211 B.R. at 387. The trustee
8 cannot assert the claim because he can only assert claims which
9 benefit the entire estate. In that situation, the individual
10 creditor is the proper person to assert the claim. "In
11 California, only a creditor with a particularized injury has
12 standing to assert an alter ego claim." Id. at 385.

13 The case of Variable-Parameter Fixture Development
14 Corporation v. Morpheus Lights, Inc. and John Richardson, 945
15 F. Supp. 603 (S.D.N.Y. 1996) provides an example of an alter
16 ego claim based upon a particularized injury.² Variable
17 involved a claim of patent infringement against Morpheus, and
18 against Richardson as the alter ego of Morpheus. Richardson
19 was the sole shareholder and president of Morpheus. Variable
20 claimed that Richardson had "actively participated in the
21 willful infringement of the ...patent and [was] personally
22 liable for the damages arising from his tortuous conduct." The
23 patent infringement suit was subsequently stayed when Morpheus
24 filed a bankruptcy petition. Variable, 945 F.Supp. at 605,

25
26 ² This case was decided in the Southern District of New York
27 using California law to analyze the alter ego claims. The court
28 stated that because "defendants are both residents of California
and because the alter ego claim will bear directly on the legal
status of a California corporation, California law will be applied
to the alter ego claims." Variable, 945 F.Supp. at 607.

1 606.

2 The court in Variable determined that although the
3 bankruptcy petition stayed the suit against Morpheus, it did
4 not stay the suit against Richardson. Id. at 608. The court
5 reasoned that the alter ego claim against Richardson was for a
6 particularized injury and was therefore not property of the
7 bankruptcy estate, and not subject to the automatic stay. Id.
8 This reasoning was based upon the fact that Richardson's
9 alleged patent infringement had not harmed the debtor
10 corporation, Morpheus, but had instead caused harm directly to
11 Variable. The Variable court explained that the basis of the
12 alter ego claim was that Richardson had:

13 directly and actively participated in ... willful
14 infringement [of the patent]. Variable claims that
15 as the alter ego of Morpheus, Richardson caused harm
16 directly to Variable. In other words, Variable has
17 alleged a "particularized injury" and not solely
18 injury to the corporation. Accordingly, the claims do
19 not fall within the ambit of the automatic stay
20 applicable to Morpheus.

21 Id.

22 D. Respondents' Alter Ego Claim

23 In their Response, Respondents state: "The purpose of the
24 Motion to Amend Judgment in the state court is to add the names
25 of the defendants, National Cab Company, Inc. and James E.
26 O'Connor, both of which are nondebtors, pursuant to
27 California's alter ego doctrine, in the personal claims of Lisa
28 Michaels and Jill Weiss for damages for personal injury."
(Response, page 2, lines 4-7.) This statement assumes that
Respondents can assert a particularized alter ego claim based
on their personal injuries.

1 To assert a particularized alter ego claim, Respondents
2 must allege direct injuries caused by an abuse of the corporate
3 entity. The abuse of the corporate entity in this case relates
4 only to the fraudulent transfer, not to the personal injuries.
5 Injury resulting from the fraudulent transfer is not a direct
6 injury particularized to Respondents. Instead, the fraudulent
7 transfer injured International directly, and each of its
8 creditors indirectly. At the second hearing, Respondents
9 conceded that any contract creditor of International could have
10 stated a claim based on the fraudulent transfer. Therefore, an
11 alter ego claim arising out of the fraudulent transfer is
12 generalized.

13 In the Motion to Amend, Respondents state:

14 James E. O'Connor manipulated the assets of International
15 and this taxicab business so that he and National would
16 continue to benefit from the assets now maintained by
17 National while the liabilities remained with
18 International. Once James E. O'Connor singlehandedly
19 accomplished the transfer of all International's assets to
20 National, he drove the undercapitalized corporation into
21 bankruptcy with \$1.6 million in debts. Clearly, the
22 transfers of International's assets to National were to
23 the detriment of International's creditors.

24 Motion to Amend, page 9, lines 26-28, page 10, lines 1-3.

25 This passage provides the basis for a generalized alter
26 ego claim, not a particularized alter ego claim. All of
27 International's creditors were harmed by the actions of
28 O'Connor, not just Respondents. Respondents have not been
harmed directly by O'Connor's abuse of the corporate entity,
but rather indirectly through his transfer of assets which
caused International to be unable to satisfy Respondents'
judgment. The harm caused to Respondents is that International

1 cannot pay its debts to Respondents and other creditors. This
2 is the same harm caused to all of International's creditors.
3 Respondents have suffered no particularized injury.

4 Respondents assert that their claims are particularized
5 because Respondents suffered direct personal injuries while
6 there was no "personal" injury to International. This argument
7 focuses on the state court personal injury claims. As stated
8 previously, no alter ego claim can be stated based upon the
9 personal injuries. Respondents have not alleged that O'Connor
10 used International in a manner that caused the personal
11 injuries.

12 In the Supplemental Response, Respondents rely upon Caplin
13 v. Marine Midland Grace Trust Co., 406 U.S. 416, 92 S. Ct.
14 1678, 32 L. Ed.2d 195 (1971) and Williams v. California First
15 Bank, 859 F.2d 664 (9th Cir. 1988) to support the proposition
16 that the Trustee does not have standing to assert an alter ego
17 claim based upon Respondents' personal injuries because the
18 personal injury judgment is not recoverable on behalf of the
19 estate. While Caplin and Williams do stand for the proposition
20 that a trustee may not assert claims on behalf of individual
21 creditors, the facts of the instant case are distinguishable
22 from Caplin and Williams.

23 The issue here is not what actions the trustee may bring
24 but what actions Respondents (or any other creditors of this
25 estate) may not bring. Caplin involved an attempt by a trustee
26 under former Chapter X of the Bankruptcy Act to sue an
27 indenture trustee for the debtor's debentures based upon the
28 indenture trustee's alleged failure to fulfill obligations

1 under the indenture. The Supreme Court rejected the trustee's
2 contentions, holding that nothing in the Bankruptcy Act (and
3 certainly nothing similar exists under the Bankruptcy Code
4 today) authorizes a trustee to collect money not owed to the
5 estate. Caplin, 406 U.S. at 428. Further, the debenture
6 holders themselves could pursue claims directly against their
7 indenture trustee and a suit by the trustee on behalf of the
8 indenture holders might be inconsistent with independent
9 actions they might be allowed to bring themselves. Id. at 431,
10 432.

11 In Williams, the Ninth Circuit followed Caplin and
12 rejected an attempt by a trustee to prosecute claims that
13 individual creditors held against a third party and assigned to
14 the trustee. Williams, 859 F.2d at 667.

15 The Trustee in the instant case has settled a fraudulent
16 transfer claim which benefits all of International's creditors.
17 The issue of National's and O'Connor's liability for the
18 generalized injury to the estate has already been resolved.
19 What remains for Trustee concerns payment of the settlement
20 debt; this affects all of International's creditors, and was
21 resolved by the Trustee's settlement of the fraudulent
22 transfer. The Trustee in not attempting to assert a personal
23 injury claim which belongs to Respondents.

24 Respondents make the additional argument that their
25 injuries are particularized because the fraudulent transfer,
26 and therefore, the alter ego liability, was in response to
27 their personal injury judgments. No case law has been found,
28 and none has been offered, to suggest that the type of alter

1 ego claim may be determined by the alleged alter ego's
2 motivations. Respondents' aggressive pursuit of the state
3 court judgment may have been the reason that O'Connor acted,
4 but still the harm is to the corporation. Even if the
5 fraudulent transfer was a specific effort to avoid
6 Respondent's judgment, the alter ego claim is determined by the
7 injury directly caused by the fraudulent transfer.
8 International has been directly harmed by the fraudulent
9 transfer. Therefore, Respondents cannot assert a
10 particularized alter ego claim based upon the personal
11 injuries, or upon the fraudulent transfer.

12 E. The Automatic Stay

13 Respondents argue that they are not in violation of the
14 automatic stay because they are not attempting to amend their
15 judgment to include the name of the debtor, International. In
16 their Response, Respondents state "[t]he automatic stay applies
17 only to the debtor, International Cab Company, Inc. and it does
18 not apply to any person or entity except the debtor."
19 (Response, page 2, lines 14-15.) While the automatic stay does
20 not apply to claims against nondebtors, it does apply to claims
21 against property of the estate under 11 U.S.C. § 362(a)(3).
22 The facts which provide the basis for Respondents' state court
23 amendment are the same facts used by the Trustee to assert the
24 fraudulent transfer. In the Motion to Amend, Respondents
25 state:

26 Said motion is made pursuant to Code of Civil
27 Procedure Section 187, on the grounds that plaintiffs
28 obtained a judgment against International Cab
Company, Inc.; after the entry of said judgment
International Cab Company, Inc. transferred all of

1 its assets to National Cab Company, Inc. for
2 inadequate consideration and for the purpose of
3 fraudulently avoiding plaintiff's judgment against
4 it.

5 Motion to Amend, page 1, lines 24-28.

6 Respondents are essentially reasserting the fraudulent transfer
7 claim. Because Respondents are in effect pursuing the
8 fraudulent transfer claim, although under a different name,
9 they are attempting to enforce a claim which is property of
10 the estate.

11 The Trustee's settlement of the fraudulent transfer
12 included the release of O'Connor and National from any further
13 claims based on that cause of action. The settlement is
14 property of the estate under 11 U.S.C. § 541 (a)(1) because it
15 is derived from the fraudulent transfer claim which is property
16 of the estate. Respondents are interfering with this property
17 because the Motion to Amend, if granted, would jeopardize the
18 release of O'Connor and National agreed to in the settlement.
19 11 U.S.C. § 362 (a)(3) provides that the filing of a bankruptcy
20 petition operates as a stay of "any act to obtain possession of
21 property of the estate or of property from the estate or to
22 exercise control over property of the estate[.] Respondents'
23 attempt to interfere with the terms of the settlement is an
24 attempt to exercise control over property of the estate.

25 Respondents' interference with the settlement, in a larger
26 sense, prospectively undermines the Trustee's ability to settle
27 general alter ego claims. If individual creditors are
28 subsequently allowed to take actions which argue the same
claims that the Trustee is empowered to settle, the ability of

1 the Trustee to settle such claims is weakened. The Trustee
2 must be able conclusively to release parties from future claims
3 as part of a settlement. All creditors claiming through a
4 generalized alter ego claim must abide by the settlement
5 negotiated by the Trustee. Davey Roofing, 167 B.R. at 608.³

6 The Trustee negotiated a settlement under which the estate
7 is currently receiving payments secured by the assets of
8 National. The Trustee contends that the Motion to Amend could
9 jeopardize the ability of National to continue making these
10 payments, thus damaging the estate. In addition, if
11 Respondents are allowed to amend the state court judgment,
12 nothing would prevent International's other creditors pursuing
13 O'Connor and National in a similar manner. This potential
14 scenario violates one of the main objectives of the automatic
15 stay. That is, the ability of the Trustee to administer the
16 assets of the estate in an orderly and equitable manner.

17 The automatic stay is one of the fundamental debtor
18 protections provided by the bankruptcy laws. ... The
19 automatic stay also provides creditor protection.
20 Without it, certain creditors would be able to pursue
21 their own remedies against the debtor's property.
22 Those who acted first would obtain payment of the
23 claims in preference to and to the detriment of other
24 creditors. Bankruptcy is designed to provide an
25 orderly liquidation procedure under which all
26 creditors are treated equally.

27 Harsh Investment Corp. v. Bialac (In re Bialac), 712 F.2d 426,
28 431 (9th Cir. 1983), citing H.R. Rep. No. 95-595, 95th Cong.,
2d Sess. at 340 (1977).

³ Respondents did not appeal this court's order approving the Trustee's settlement with O'Connor and National.

1 F. Sanctions for Contempt of the Automatic Stay

2 Violations of the automatic stay are normally sanctioned
3 under 11 U.S.C. § 362(h) which states: "An individual injured
4 by any willful violation of a stay provided by this section
5 shall recover actual damages, including costs and attorneys
6 fees, and, in appropriate circumstances, may recover punitive
7 damages." Although a trustee is not an "individual" who may
8 recover damages for violation of the automatic stay under 11
9 U.S.C. § 362(h), a bankruptcy court may award sanctions to a
10 trustee under its contempt power. Havelock v. Taxel (In re
11 Pace), 67 F.3d 187, 193 (9th Cir. 1995).

12 The Trustee has requested that Respondents be sanctioned
13 in this matter. The court has discretion under 11 U.S.C. §
14 105(a) to impose sanctions for contempt for violation of the
15 automatic stay. Id. Section 105(a) provides:

16 The court may issue any order, process, or judgment
17 that is necessary or appropriate to carry out the
18 provisions of this title. No provision of this title
19 providing for the raising of an issue by a party in
20 interest shall be construed to preclude the court
from, sua sponte, taking any action or making any
determination necessary or appropriate to enforce or
implement court orders or rules, or to prevent an
abuse of process.

21 The Ninth Circuit has stated that "[section 105(a) is
22 broad enough to provide relief to those entities that are
23 injured by willful violations of the automatic stay, but cannot
24 recover under § 362(h)." State of California Employment
25 Development Dept. v. Taxel (In re Del Mission Limited), 98 F.3d
26 1147, 1152 (9th Cir. 1996). A violation of the automatic stay
27 may be considered willful even in the absence of any intent to
28 violate the stay. The violation is willful if "the defendant

1 knew of the automatic stay and ... the defendants's actions
2 which violated the stay were intentional." Goichman v. Bloom
3 (In re Bloom), 875 F.2d 224, 227 (9th Cir. BAP 1989).

4 Respondents were clearly aware of the automatic stay, and their
5 actions in filing the motion to amend the state court judgment
6 were intentional.

7 Respondents have been advised twice that any claim based
8 on a fraudulent transfer is property of the estate: once when
9 the Trustee requested that Respondents dismiss their state
10 court fraudulent transfer action, and again at the hearing on
11 approval of the Trustee's settlement with National and
12 O'Connor. Therefore, it may be inferred that Respondents have
13 chosen to disregard the instructions of the court, and are
14 therefore in contempt.

15 V. Disposition

16 For the foregoing reasons, Respondents have violated the
17 automatic stay and are in contempt. The court acknowledges
18 that the issues raised by this controversy are difficult and
19 not always clear to practitioners not familiar with the
20 applicable bankruptcy doctrines at play. Because it is a
21 particularly obtuse area of the law, and further because the
22 court is satisfied that Respondents seemed to have made a good
23 faith effort to attempt to avoid the reach of 11 U.S.C.
24 § 362(a), including their consultation with bankruptcy counsel,
25 the court does not regard the violations as malicious or in bad
26 faith. That being said, Respondents will have to get the
27 message once and for all that they may not interfere with the
28 Trustee's rights. They were warned once by the Trustee when

1 they attempted to prosecute their fraudulent transfer action;
2 they were admonished by the court at the hearing on the
3 settlement. Thus today's decision, while not in the nature of
4 injunctive relief (as none was sought) should constitute a
5 severe warning to Respondents to put this entire matter behind
6 them as difficult as that may be. The court will temperate
7 sanctions based upon the foregoing reasons and further because
8 of the very difficult situation Ms. Michaels and Ms. Weiss have
9 encountered after suffering personal injuries. If there is any
10 further disregard for these bankruptcy principles, however, the
11 court will not be so considerate.

12 Attorney's fees and costs are appropriate as a basis for
13 awarding damages for violation of the automatic stay under 11
14 U.S.C. § 105(a). In re Pace at 192. Therefore, the court will
15 order that within ten days of service of the order to be
16 presented, Respondents shall pay \$1,000 to the Trustee as
17 partial compensation for the Trustee's costs and fees in filing
18 and defending the motion to show cause re contempt for
19 violating the automatic stay.

20 The Trustee should submit a form of order consistent with
21 the foregoing and shall comply with B.L.R. 9021-1 and 9022-1.

22 Dated: August __, 1999

23 _____
24 Dennis Montali
25 United States Bankruptcy Judge
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